

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANCIS M. BURKE	:	CIVIL ACTION
	:	
v.	:	
	:	
TWP. OF CHELTENHAM, et al.	:	NO. 10-1508

ORDER

AND NOW, this 5th day of October, 2010, upon consideration of plaintiff's amended complaint (docket entry # 7), defendants' partial motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) (docket entry # 10), and plaintiff's response thereto (docket entry # 11), and in accordance with the accompanying Memorandum, it is hereby ORDERED that:

1. Defendants' motion to dismiss is GRANTED as to Counts II, IV, and VI with respect to all defendants and all grounds;

2. Defendants' motion to dismiss is GRANTED as to Count I with respect to the grounds of unlawful seizure and illegal restraint in handcuffs, and with respect to defendant Baskins, but is DENIED with respect to the ground of unlawful search with respect to defendants Corbo, Chiofolo, and O'Neil;

3. Defendants' motion to dismiss is GRANTED as to Count III with respect to the ground of lack of probable cause and with respect to defendant Township of Cheltenham, but is

DENIED with respect to the ground of disproportionate force with respect to defendants Corbo, Chiofolo, O'Neil, and Baskins;

4. Defendants' motion to dismiss is GRANTED as to Count V with respect to defendant Norris in his official capacity, but is DENIED with respect to defendant Township of Cheltenham and defendant Salmon in his individual capacity; and

5. Defendants' motion to dismiss is DENIED as to Counts VII and VIII with respect to all grounds and all defendants.

BY THE COURT:

\_\_\_\s\Stewart Dalzell